IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

-

WRIT PETITION NO : 11455 of 2004

Between:

A. Nagesh, S/o. Laxman,
R/o. Varni Village and Mandal, Nizamabad District.

..... PETITIONER

AND

1 Joint Collector, Nizamabad District.
2 Revenue Divisional Officer, Bodhan, Nizamabad District.
3 Mandal Revenue Officer, Varni Mandal, Nizamabad District.
4 Mandal Revenue Inspector, Varni Mandal, Office of the Mandal Revenue Officer, Varni, Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the Proceeding No. E2/2076/2004 dt. 1-7-2004 issued by the 2nd respondent as being illegal, arbitrary, without jurisdiction and violative of Art. 14 of the Constitution of India and consequently set aside the same.

Counsel for the Petitioner: MR.K.RAGHUVEER REDDY, Advocate

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following:

ORDER:

The Writ Petition is filed by the petitioner aggrieved by the action of the 2nd respondent in suspending the authorization of the petitioner on the ground that there is some variation with reference to the ground stock, apart from the initiation of the proceedings by the 1st respondent-Joint Collector in respect of two quintals of rice, said to have been seized under the cover of a panchanama from one K.Viswnath Seth, who has stated that the said quantity of rice was sold by the petitioner.

2 . According to the petitioner, the Mandal Revenue Inspector, who has stated to have been inspected the premises of the petitioner, has not physically verified the quantity of rice by properly weighing, except counting the number of bags. Even as per the said report of the Mandal Revenue Inspector, the variation that was found is within the permissible limits. With reference to two quintals of rice seized from K.Viswanath Seth, it is stated that the petitioner was given rice towards the remuneration, payable as commission for distribution of rice, meant for 'food for work' and in the said process, the petitioner was released 6.39 quintals of 'BPT Rice' at the rate of 1310/- per quintal. According to the petitioner, out of the rice supplied by the Department, the petitioner sold two quintals in four bags to Viswanath, which was seized. There is no violation or contravention of any of the provisions of the Control Orders in effecting the sale of two quintals of rice to the said person from whom the said two quintals of rice was seized. Even with reference to the other variations, which were reported, the report of the Inspector shows that the

petitioner lifted 60.00 quintals 'PDS Rice' for distribution in the month of June, 2004, while he was having 2.42 quintals PDS rice as ground balance before lifting the above stock. Out of the said stock, the petitioner has distributed 62.36 quintals to the card-holders by receiving coupons, which were found by the Mandal Revenue Inspector, the further variation was of 0.06 kgs., which is within the permissible limit. Similarly, the petitioner was having 194.35 quintals of food for work rice, out of which, 12.70 quintals of rice was issued to the Panchayat Secretary towards drought works, and the petitioner was having a balance of 181.61, but on physical verification, the Mandal Revenue Inspector found 177.36 quintals available and found variation of 4.29 quintals. The said variation is also within the permissible limit, as, according to the instructions issued by the Civil Supplies Department, the variation of plus or minus four percent is permissible.

3. Therefore, the learned counsel for the petitioner contended that as the variations are within the permissible limits, absolutely there is no justification for the 2nd respondent in suspending the authorization of the petitioner.

4. The learned Government Pleader opposed the said contentions of the petitioner.

5. Heard the learned counsel for the petitioner, learned counsel for the respondents and considered the material on record.

6. In view of the above contentions advanced by the petitioner, which is evident from the impugned order, passed by the 2nd respondent, there are no justifiable grounds warranting suspension of the authorization of the petitioner.

7. In the above circumstances, the impugned order of suspension, passed by the 2nd respondent, is set aside. However, it is open to the 1st respondent to proceed with the enquiry of Sec.6-A proceedings and conclude the same, expeditiously, and it is always open to the petitioner to raise all objections before the 1st respondent, including the jurisdiction and maintainability of the proceedings.

8. The Writ Petition is, accordingly allowed. No costs.

Note:

Issue copy in

three days. (bo)

Dsr/Kvh

ASSISTANT REGISTRAR

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SECTION OFFICER

To

1. The Joint Collector, Nizamabad

2. The Revenue Division Officer,

Bodhan, Nizamabad District

3. The Mandal Revenue Officer,

Varni Mandal, Nizambad District

4. The Mandal Revenue Inspector,

Varni Mandal, Nizambad District

5. Two CCs to the Government Pleader,

[Civil Supplies], High Court Buildings,

Hyderabad [OUT]

6. Two CD copies.